

00-R-1923

Entered - 11/02/00 - sb  
CL00L0669 - DIANNE C. MITCHELL

CLAIM OF: HARRY'S PHOTOGRAPHY  
42 Forsyth Street  
Atlanta, Georgia 30303

For damages alleged to have been sustained as a result of sewer back ups occurring at 42 Forsyth Street in November and December, 1999.

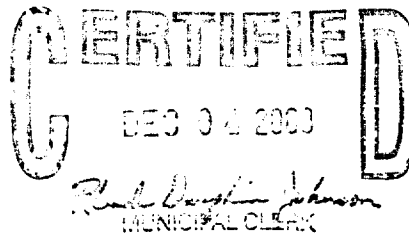
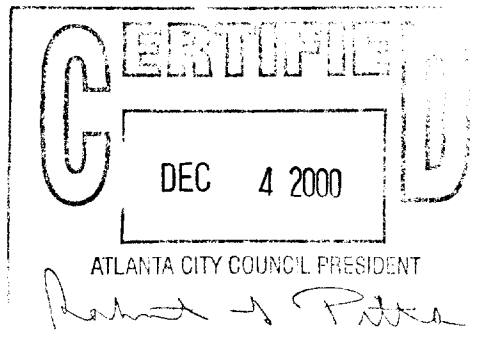
THIS ADVERSED REPORT IS APPROVED

BY: Rosalind Rubens Newell by RRG/DCA  
ROSALIND RUBENS NEWELL  
DEPUTY CITY ATTORNEY

CONSENT AGENDA

ADVERSED BY  
CITY COUNCIL DEC 04 2000

ADVERSED REPORT  
Public Safety  
11/28/00  
C.T. Martin  
J. Lee D. King  
Michael B. [Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]





## OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC  
MUNICIPAL CLERK

55 TRINITY AVENUE, S.W.  
SECOND FLOOR, EAST  
SUITE 2700  
ATLANTA, GEORGIA 30335  
(404) 330-6033  
FAX (404) 658-6103

December 12, 2000

Harry's Photography  
Attn: Ben Harry  
42 Forsyth Street  
Atlanta, GA 30303

**00-R-1923**

Dear Mr. Harry:

I sincerely regret that you have been adversely affected by the circumstances raised in your claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your claim at its regular meeting on December 4, 2000. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division at (404) 330-6400.**

Sincerely,

Rhonda Dauphin Johnson, CMC  
Municipal Clerk

**cc: Claims Division/Law Department**

**DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY**

Claim No. 00L0669

Date: November 15, 2000

Claimant /Victim HARRY'S PHOTOGRAPHY

BY: (Atty) (Ins. Co.) \_\_\_\_\_

Address: 42 Forsyth Street, Atlanta, Georgia 30303

Subrogation: Claim for Property damage \$ 37,599.10 Bodily Injury \$ \_\_\_\_\_

Date of Notice: 10/23/00 Method: Written, proper X Improper \_\_\_\_\_

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) \_\_\_\_\_

Date of Occurrence November and December 1999 Place: 42 Forsyth Street

Department Public Works Division: Sewer Operations

Employee involved \_\_\_\_\_ Disciplinary Action: \_\_\_\_\_

NATURE OF CLAIM: The claimant alleges that its property was damage due to sewer back ups occurring in November and December, 1999. However, the claim as presented does not comply with the requirements of notice as set forth in O.C.G.A. §36-33-5, the six month statute of limitations expired prior to receipt of the claim.

**INVESTIGATION:**

Statements: City employee \_\_\_\_\_ Claimant \_\_\_\_\_ Others \_\_\_\_\_ Written \_\_\_\_\_ Oral \_\_\_\_\_

Pictures \_\_\_\_\_ Diagrams \_\_\_\_\_ Reports: Police \_\_\_\_\_ Dept Report \_\_\_\_\_ Other \_\_\_\_\_

Traffic citations issued: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

Citation disposition: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

**BASIS OF RECOMMENDATION:**

Function: Governmental X Ministerial \_\_\_\_\_

Improper Notice \_\_\_\_\_ More than Six Months X Other \_\_\_\_\_ Damages reasonable \_\_\_\_\_

City not involved \_\_\_\_\_ Offer rejected \_\_\_\_\_ Compromise settlement \_\_\_\_\_

Repair/replacement by Ins. Co. \_\_\_\_\_ Repair/replacement by City Forces \_\_\_\_\_

Claimant Negligent \_\_\_\_\_ City Negligent \_\_\_\_\_ Joint \_\_\_\_\_ Claim Abandoned \_\_\_\_\_

Respectfully submitted,

  
INVESTIGATOR - DIANNE C. MITCHELL

**RECOMMENDATION:**

Pay \$ \_\_\_\_\_ Adverse X Account charged: 1A01 \_\_\_\_\_ 2J01 \_\_\_\_\_ 2H01 \_\_\_\_\_

Claims Manager:  Concur/date 11-15-00

Committee Action: \_\_\_\_\_ Council Action \_\_\_\_\_

Mitchell  
11/01/00

COUNCIL of the CITY OF ATLANTA  
CLERK OF COUNCIL  
68 Mitchell Street, SW  
Atlanta, Georgia 30335

RE: CLAIM FOR DAMAGES

DATE: 10-19-2000

ENTERED - 11-2-00 - SB

00L0669 - DIANNE MITCHELL

Dear Sir:

This is to notify the City of Atlanta that I have suffered damages in the sum of \$37,544.10 property and/or \$n/a bodily injury for which I contend the City is liable.

1. Date of accident: Nov. & Dec. 1999 2. Police called: \_\_\_\_\_  
(yes) (no)
3. Location of accident: 42 Forsyth Street
4. Name of your insurance company: n/a
5. State how accident occurred: City working on street damaged pipes & raw sewage flooded site on two (2) different occasions.
6. If a vehicular accident, complete the following and attach two (2) estimates of repair. ALL ESTIMATES AND VEHICLE DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE STATEMENTS WILL RESULT IN YOUR CLAIMS BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION! The registered owner must make the claim for vehicle damages.
7. Your vehicle: n/a  
(make) (year) (tag#) (driver's name)
8. City vehicle: n/a  
(make) (year) (tag#) (drivers name)
9. Witness: Joseph Gamble 404/624-0753 - City Employee  
(name) (phone) (address)
10. The knowledge of this claim in no way waives the Governmental Immunity of the City of Atlanta, as granted by State Law, nor is it an admission of liability on behalf of the City of Atlanta and/or its employee(s).

I HEREBY CERTIFY THE ABOVE INFORMATION IS TRUE AND CORRECT.

11. THIS CLAIM SHOULD BE MAILED IMMEDIATELY TO THE ADDRESS SHOWN ABOVE

Harry's Photography  
(claimant)  
42 Forsyth Street  
(address)  
Atlanta GA 30303  
(City) (State) (zip)  
404 691-1434 -4/688-2815  
(home) (phone) (work)

# **HARRY'S PHOTOGRAPHY**

42 Forsyth Street  
Atlanta, Georgia 30303

404/688-2815

Ben Harry  
Owner

Please be advised that the property and damages were inspected by Joseph Gamble (404 624-0753 and Alan Moore (404 299-4549) both of the Department of Public Works.

A claim was not submitted before now because we were not confident that this would not happen again. We had been assured after the first flood of raw sewage in November that the problem had been solved. A few weeks later we were flooded ten times worse than the first. Now that it seems that the city has completed its major work in this area, we believe that the danger of being flooded again has passed.

Please feel free to contact me, Ben Harry as follows:

Studio Location ... 404/688-2815  
Operations ..... 404/691-1434

My assistant, Miss A. Davis, can be reached as follows:

404/799-3020  
678/492-8799  
404/799-3020 FAX

  
Ben Harry - Owner

00-R-1923

RCS# 2434  
12/04/00  
3:58 PM

Atlanta City Council

Regular Session

CONSENT

Pages: 1-19

ADOPT

YEAS: 12  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 3  
EXCUSED: 0  
ABSENT 1

SEE ATTACHED LISTING OF  
ITEMS ADOPTED/ADVERSED  
ON CONSENT AGENDA

NV McCarty	Y Dorsey	Y Moore	B Thomas
Y Starnes	Y Woolard	Y Martin	Y Emmons
Y Bond	Y Morris	Y Maddox	NV Alexander
Y Winslow	Y Muller	Y Boazman	NV Pitts

ITEM (S) REMOVED FROM  
CONSENT AGENDA  
00-O-1874  
00-O-1986  
00-R-1950

CONSENT

		12/04/00 Council Meeting
ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADVERSE ON CONSENT AGENDA
1. 00-O-1289 2. 00-O-1680 3. 00-O-1792 4. 00-O-1797 5. 00-O-1003 6. 00-O-1228 7. 00-O-1795 8. 00-O-1796 9. 00-O-1860 10. 00-O-1616 11. 00-O-1853 12. 00-O-1801 13. 00-O-1963 14. 00-O-1965 15. 00-R-1788 16. 00-R-1886 17. 00-R-1953 18. 00-R-1955 19. 00-R-2009 20. 00-R-2010 21. 00-R-2011* 22. 00-R-1890 23. 00-R-1937 24. 00-R-1938 25. 00-R-1939 26. 00-R-1940 27. 00-R-1988 28. 00-R-2006 29. 00-R-2013 30. 00-R-1887 31. 00-R-2015 32. 00-R-1957 33. 00-R-1958 34. 00-R-1877 35. 00-R-2008	36. 00-R-1959 37. 00-R-1882 38. 00-R-1985 39. 00-R-1943 40. 00-R-1945 41. 00-R-1946 42. 00-R-1947 43. 00-R-1948 44. 00-R-1949 45. 00-R-1951 46. 00-R-1970 47. 00-R-2016 48. 00-R-1901 49. 00-R-1902 50. 00-R-1903 51. 00-R-1904 52. 00-R-1905 53. 00-R-1906 54. 00-R-1907 55. 00-R-1908 56. 00-R-1909 57. 00-R-1910 58. 00-R-1911 59. 00-R-1912 60. 00-R-1913 61. 00-R-1914 62. 00-R-1915 63. 00-R-1916	64. 00-R-1816 65. 00-R-1817 66. 00-R-1818 67. 00-R-1819 68. 00-R-1820 69. 00-R-1821 70. 00-R-1822 71. 00-R-1823 72. 00-R-1824 73. 00-R-1825 74. 00-R-1826 75. 00-R-1827 76. 00-R-1828 77. 00-R-1829 78. 00-R-1830 79. 00-R-1831 80. 00-R-1832 81. 00-R-1833 82. 00-R-1834 83. 00-R-1836  * President Pitts recused himself.